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## INITIATIVE 245

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 245 to the Legislature is a true and correct copy as it was received by this office.

1       AN ACT Relating to health care financing; amending RCW 41.05.120,  
2 41.05.130, 66.24.290, 82.24.020, 82.26.020, 82.08.150, 43.79.480, and  
3 41.05.220; adding new sections to chapter 82.02 RCW; adding a new  
4 chapter to Title 43 RCW; creating new sections; repealing RCW 82.04.260  
5 and 48.14.0201; making an appropriation; providing effective dates; and  
6 providing an expiration date.

7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

8 NEW SECTION.     **Sec. 1.**     (1) There is a crisis in health care  
9 accessibility, affordability, and choice in Washington state. Health  
10 care through insurance companies has failed to control costs, increase  
11 access, or preserve choice. More than six hundred thousand Washington  
12 residents have no health care coverage. Individual plans are  
13 unavailable in most counties. Many clinics, physician practices and  
14 emergency departments, especially in rural areas, are closing or  
15 operating at a loss. Employers, faced with fewer choices and more  
16 expensive premiums, are reducing employment-based health care coverage.  
17 Simplifying health care financing and eliminating administrative waste

1 inherent in multiple insurance plans can create sufficient savings to  
2 extend health care coverage to all residents and enhance fairness in  
3 the system.

4 (2) The people of the state of Washington declare their intent to  
5 create a framework and process to involve the citizens of Washington  
6 state in the creation of a single financing entity called the  
7 Washington health security trust. Through public hearings, research,  
8 and consensus building, the trust will accomplish the follow goals:

9 (a) Provide fair, simple, and accountable health care financing for all  
10 Washington residents using a single health care financing entity; (b)  
11 cover a comprehensive package of effective and necessary personal  
12 health services; (c) make health care coverage independent from  
13 employment; (d) eliminate excessive administrative costs resulting from  
14 the current fragmented system of multiple insurers; (e) generate  
15 savings sufficient to ensure coverage for all Washington residents; (f)  
16 integrate current publicly sponsored health programs into the health  
17 security trust; (g) preserve choice of providers for Washington  
18 residents; (h) protect patient rights; (i) keep clinical decisions in  
19 the hands of health professionals and patients, rather than  
20 administrative personnel; (j) promote health care quality; and (k)  
21 control excessive health care costs.

22 NEW SECTION. **Sec. 2.** The definitions in this section apply throughout  
23 this chapter unless the context clearly requires otherwise.

24 (1) "Board" means the board of trustees of the Washington health  
25 security trust, created in section 3 of this act.

26 (2) "Capitation" means a mechanism of payment in which a provider  
27 is paid a negotiated monthly sum and is obliged to provide all covered  
28 services for specific patients who enroll with that provider.

29 (3) "Case rate" means a method of payment based on diagnosis. Case  
30 rate assumes that a given set of services shall be provided and the  
31 rate is based on the total compensation for those services.

32 (4) "Chair" means the presiding officer of the board.

33 (5) "Employer" means any person, partnership, corporation,  
34 association, joint venture, or public or private entity operating a  
35 business in Washington state and employing for wages, salary, or other  
36 compensation, one or more residents. "Employer" does not include  
37 self-employed persons with respect to self-employment earnings.

38 (6) "Federal poverty level" means the federal poverty guidelines  
39 determined annually by the United States department of health and human  
40 services or its successor agency.

1 (7) "Group practice" or "group" means a group of practitioners  
2 voluntarily joined into an organization for the purpose of sharing  
3 administrative costs, negotiating with payers and controlling the  
4 circumstances of their medical practice, and, in some cases, sharing  
5 revenues. The group may be of a single specialty or include more than  
6 one specialty.

7 (8) "Health care facility" or "facility" includes any of the  
8 following appropriately accredited entities: Hospices licensed  
9 pursuant to chapter 70.127 RCW; hospitals licensed pursuant to chapter  
10 70.41 RCW; rural health care facilities as defined in RCW 70.175.020;  
11 psychiatric hospitals licensed pursuant to chapter 71.12 RCW; nursing  
12 homes licensed pursuant to chapter 18.51 RCW; community mental health  
13 centers licensed pursuant to chapter 71.05 or 71.24 RCW; kidney disease  
14 treatment centers licensed pursuant to chapter 70.41 RCW; ambulatory  
15 diagnostic, treatment, or surgical facilities licensed pursuant to  
16 chapter 70.41 RCW; approved drug and alcohol treatment facilities  
17 certified by the department of social and health services; home health  
18 agencies licensed pursuant to chapter 70.127 RCW; and such facilities  
19 if owned and operated by a political subdivision or instrumentality of  
20 the state and such other facilities as required by federal law and  
21 implementing regulations.

22 (9) "Health care practitioner" or "practitioner" means a person  
23 licensed or certified under Title 18 RCW or chapter 70.127 RCW, and  
24 covered by the all categories of provider law, RCW 48.43.045, providing  
25 health care services in Washington state consistent with their lawful  
26 scope of practice.

27 (10) "Health care provider" or "provider" means any health care  
28 facility, or health care practitioner or group practice licensed or  
29 certified under Washington state law to provide health or  
30 health-related services in Washington state.

31 (11) "Income" means the adjusted gross household income for federal  
32 income tax purposes.

33 (12) "Long-term care" means institutional, residential, outpatient,  
34 or community-based services that meet the individual needs of persons  
35 of all ages who are limited in their functional capacities or have  
36 disabilities and require assistance with performing two or more  
37 activities of daily living for an extended or indefinite period of  
38 time. These services include case management, protective supervision,

1 in-home care, nursing services, convalescent, custodial, chronic, and  
2 terminally ill care.

3 (13) "Native American" means an American Indian or Alaska Native as  
4 defined under 25 U.S.C. 1603.

5 (14) "Payroll" means any amount paid to Washington state residents  
6 and defined as "wages" under section 3121 of the internal revenue code.

7 (15) "Resident" means an individual who presents evidence of  
8 established, permanent residency in the state of Washington, who did  
9 not enter the state for the primary purpose of obtaining health  
10 services. "Resident" also includes people and their accompanying  
11 family members who are residing in the state for the purpose of  
12 engaging in employment for at least one month. The confinement of a  
13 person in a nursing home, hospital, or other medical institution in the  
14 state may not by itself be sufficient to qualify such person as a  
15 resident.

16 (16) "Trust" means the Washington health security trust created in  
17 section 3 of this act.

18 NEW SECTION. **Sec. 3.** An agency of state government known as the  
19 Washington health security trust is created. The purpose of the trust  
20 is to provide coverage for a set of health care services for all  
21 residents.

22 NEW SECTION. **Sec. 4.** (1) The trust shall be governed by a board of  
23 trustees. The board consists of seven trustees selected for expertise  
24 in health care financing and delivery, and representing Washington  
25 citizens, business, labor, and health professions. The trustees shall  
26 be appointed by the governor, subject to confirmation by the senate.  
27 The governor shall appoint the initial board by March 15, 2002. Of the  
28 initial trustees, three shall be appointed to terms of two years, two  
29 shall be appointed to terms of four years, and two shall be appointed  
30 to terms of six years. Thereafter, trustees shall be appointed to  
31 six-year terms, except that the governor shall appoint a trustee to  
32 serve the remaining term for a vacancy from any cause. The board shall  
33 convene no later than May 15, 2002.

34 (2) Members of the board shall have no pecuniary interest in any  
35 business subject to regulation by the board. Members of the board are  
36 subject to chapter 42.52 RCW.

(3) Members of the board shall occupy their positions on a full-time basis and are exempt from the provisions of chapter 41.06 RCW. The board and its professional staff are subject to the public disclosure provisions of chapter 42.17 RCW. Trustees shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. Four trustees constitute a quorum for the conduct of business.

(4) One member of the board shall be designated by the governor as chair, subject to confirmation by a majority of the other trustees. The chair shall serve in this capacity, subject to continuing confidence of a majority of the board.

(5) If convinced by a preponderance of the evidence in a due process hearing that a trustee has failed to perform required duties or has a conflict with the public interest, the governor may remove that trustee and appoint another to serve the unexpired term.

**NEW SECTION. Sec. 5.** (1) Subject to the approval of the board, the chair shall appoint two standing committees.

(a) A citizens' advisory committee shall have balanced representation from health experts, business, labor, and consumers. The citizens' advisory committee shall hold public hearings on priorities for inclusion in the set of health services, survey public satisfaction, investigate complaints, and identify and report on health care access and other priority issues for residents.

(b) A technical advisory committee shall have members with broad experience in and knowledge of health care delivery, research, and policy, as well as public and private funding of health care services. The technical advisory committee shall make recommendations to the board on technical issues related to covered benefits, quality assurance, utilization, and other issues as requested by the board.

(2) The board shall consult with the citizens' advisory committee at least quarterly, receive its reports and recommendations, and then report to the governor and legislature at least annually on board actions in response to citizens' advisory committee input.

(3) Subject to approval of the board, the chair may appoint other committees and task forces as needed.

(4) Members of committees shall serve without compensation for their services but shall be reimbursed for their expenses while attending meetings on behalf of the board in accordance with RCW 43.03.050 and 43.03.060.

1 NEW SECTION. **Sec. 6.** The chair is the presiding officer of the board  
2 and has the following powers and duties:

3 (1) Appoint an executive director with the approval of the board.  
4 The executive director, with approval of the board, shall employ staff  
5 in accordance with chapter 41.06 RCW necessary to execute the policies  
6 and decisions of the board;

7 (2) Enter into contracts on behalf of the board. All contracts are  
8 subject to review and binding legal opinions by the attorney general's  
9 office if disputed in a due process hearing by a party to such a  
10 contract;

11 (3) Subject to explicit approval of a majority of the board, accept  
12 and expend gifts, donations, grants, and other funds received by the  
13 board; and

14 (4) Delegate administrative functions of the board to the executive  
15 director and staff of the trust as necessary to ensure efficient  
16 administration.

17 NEW SECTION. **Sec. 7.** (1) The board shall: (a) With advice from the  
18 citizens' advisory committee and the technical advisory committee,  
19 establish and keep current a set of health services to be financed by  
20 the trust, as provided in section 11 of this act; (b) seek all  
21 necessary waivers so that current federal and state payments for health  
22 services to residents will be paid directly to the trust; (c) make  
23 rules, policies, guidelines, and timetables needed for the trust to  
24 finance the set of health services for all residents starting May 15,  
25 2003; (d) develop or contract for development of a state-wide,  
26 anonymous health care data system to use for quality assurance and cost  
27 containment; (e) with advice from the technical advisory committee,  
28 develop health care practice guidelines and quality standards; (f)  
29 develop policies to protect confidentiality of patient records  
30 throughout the health care delivery system and the claims payment  
31 system; (g) make eligibility rules, including eligibility for residents  
32 temporarily out-of-state; (h) develop or contract for development of a  
33 streamlined uniform claims processing system that must pay providers in  
34 a timely manner for covered health services; (i) develop appeals  
35 procedures for residents and providers; (j) integrate functions with  
36 other state agencies; (k) work with the citizens' advisory committee  
37 and the technical advisory committee to balance benefits and provider  
38 payments with revenues, and develop effective measures to control

1 excessive and unnecessary health care costs; (l) address nonfinancial  
2 barriers to health care access; (m) monitor population migration into  
3 Washington state to detect any trends related to availability of  
4 universal health care coverage; and (n) develop an annual budget for  
5 the trust.

6 (2) To the extent that the exercise of any of the powers and duties  
7 specified in this section may be inconsistent with the powers and  
8 duties of other state agencies, offices, or commissions, the authority  
9 of the board supersedes that of such other state agency, office, or  
10 commission.

11 NEW SECTION. **Sec. 8.** (1) Beginning May 15, 2003, the board shall  
12 adopt, in consultation with the office of financial management, an  
13 annual Washington health security trust budget. Except by legislative  
14 approval, each annual budget shall not exceed the budget for the  
15 preceding year by more than the Washington state consumer price index.  
16 If operations expenses exceed revenues generated in two consecutive  
17 years, the board shall recommend adjustments in either benefits or  
18 revenues, or both, to the legislature.

19 NEW SECTION. **Sec. 9.** (1) The board shall report annual changes in  
20 total Washington health care costs, along with the financial position  
21 and the status of the trust, to the governor and legislature at least  
22 once a year.

23 (2) The board shall seek audits annually from the state auditor.

24 (3) The board shall contract with a private organization for an  
25 external performance audit every two years.

26 (4) The board shall submit any internal rules or policies it adopts  
27 to the secretary of state. The internal rules or policies must be made  
28 available by the secretary of state for public inspection.

29 NEW SECTION. **Sec. 10.** (1) All residents are eligible for coverage  
30 through the trust.

31 (2) If a resident has health insurance coverage for any health  
32 services provided in the state, the benefits provided in this act are  
33 secondary to that insurance. Nonresidents are covered for emergency  
34 services and emergency transportation only.

35 (3) Until federal waivers are accomplished, residents covered under  
36 federal health programs shall continue to use that coverage, and

benefits provided by the trust shall extend only to costs not covered by the federal health programs.

(4) The board shall make provisions for determining eligibility for coverage for residents while they are temporarily out of the state.

(5) Pending integration of federally qualified Taft-Hartley trusts into the health security trust, employees covered under Taft-Hartley trusts are not eligible for coverage through the health security trust unless: (a) The employee's salary is considered in calculating the employer's health security assessment defined under section 16 of this act; and (b) either the employer or the employee pays the health security premium under section 17 of this act.

(6) Pending integration of federally qualified Taft-Hartley trusts into the health security trust, residents who are retirees covered under Taft-Hartley trusts are not eligible for coverage through the health security trust unless they pay the health security premium under section 17 of this act.

(7) Pending integration into the health security trust of applicable federal programs described in section 21, native American residents are not eligible for coverage through the health security trust unless (a) the resident's salary is considered in calculating the employer's health security assessment defined under section 16 and (b) either the employer or the resident pays any health security premium due under section 17.

(8) Nothing in this act shall be construed to limit a resident's right to seek health care from any provider he or she chooses, or from obtaining coverage for health care benefits in excess of those available under the trust.

**NEW SECTION. Sec. 11.** (1) With advice from the citizens' advisory committee and the technical advisory committee, the board shall establish a single benefits package covering health services that are effective and necessary for the good health of residents and that emphasize preventive and primary health care.

(2) The benefits package shall include, but is not limited to: (a) Inpatient and outpatient hospital care, including twenty-four hour a day emergency services and emergency ambulance services; (b) outpatient, home-based, and office-based care; (c) rehabilitation services, including speech, occupational, and physical therapy; (d) inpatient and outpatient mental health services and substance abuse

1 treatment; (e) hospice care; (f) prescription drugs and prescribed  
2 medical nutrition; (g) vision and hearing care; (h) diagnostic tests;  
3 (i) durable medical equipment; and (j) preventive care.

4 (3) Subject to a financial analysis demonstrating ongoing  
5 sufficient funds in the trust, long-term care shall be a covered  
6 benefit as of May 15, 2004. Long-term care coverage shall include a  
7 uniform initial assessment and coordination between home health, adult  
8 day care, and nursing home services, and other treatment alternatives.  
9 The board shall establish a copayment for long-term nursing home care,  
10 to cover some costs of room and board, for residents with incomes above  
11 one hundred fifty percent of the federal poverty level. The board, in  
12 coordination with the office of the insurance commissioner, shall  
13 examine by May 15, 2004, possible remedies for residents who have made  
14 previous payments for long-term care insurance.

15 (4) Except where otherwise prohibited by federal law, board shall  
16 establish copayments for outpatient visits, emergency room visits, and  
17 prescription drugs for residents with incomes above one hundred fifty  
18 percent of the federal poverty level. There shall be an annual cap of  
19 five hundred dollars per family.

20 (5) The board shall submit to the legislature by July 1, 2004, a  
21 plan to incorporate dental care coverage in the benefits package, to be  
22 effective January 1, 2005.

23 (6) The board shall submit to the governor and legislature by  
24 December 1, 2002, and by December 1st of the following years: (a) The  
25 benefits package, and (b) an actuarial analysis of the cost of the  
26 package.

27 (7) The board shall consider the extent to which medical research  
28 and health professions training activities should be included in the  
29 scope of covered activities set forth in this act. The board shall  
30 make a report to the governor and the legislature by July 1, 2004.

31 NEW SECTION. Sec. 12. (1) When consistent with existing federal law,  
32 the board shall require pharmaceutical and durable medical equipment  
33 manufacturers to provide their products in Washington state at the  
34 lowest rate offered to federal and other government entities.

35 (2) The board may seek other means of financing drugs and durable  
36 medical equipment at the lowest possible cost, including bulk  
37 purchasing agreements with Washington state tribes.

(3) The board may enact drug formularies that do not interfere with treatments necessary for appropriate standards of care.

**NEW SECTION. Sec. 13.** (1) The board shall adopt rules permitting providers to collectively negotiate budgets, payment schedules, and other terms and conditions of trust participation.

(2) The board shall annually negotiate with each hospital and each facility a prospective global budget for operational and other costs to be covered by the trust. Group practices may also negotiate on a global budget basis. Hospitals and other facilities shall be paid on a fee-for-service or case rate basis, within the limits of their prospective annual budget.

(3) Payment to individual practitioners shall be by fee-for-service or on a case rate basis. The board shall study the feasibility of paying by capitation to providers, and how resident enrollment would take place under capitation.

(4) Individual practitioners who are employed by a group, facility, clinic, or hospital may be paid by salary.

(5) The board shall adopt rules ensuring that payment schedules and procedures for mental health services are comparable to other health care services.

(6) The board shall study and seek to develop provider payment methods that: (a) encourage an integrated multispecialty approach to disease management; (b) reward education time spent with patients; and (c) include a medical risk adjustment formula for providers whose practices serve patients with higher than average health risks.

(7) Nothing in this act shall be construed to limit a provider's right to receive payments from sources other than the trust. However, any provider who does accept payment from the trust for a service must accept that payment, along with applicable copayments, as payment in full.

**NEW SECTION. Sec. 14.** (1) The intent of this section is to exempt activities approved under this act from state antitrust laws and to provide immunity from federal antitrust laws through the state action doctrine.

(2) Activities that might otherwise be constrained by antitrust laws, including: (a) containing the aggregate cost of health care services; (b) promoting cooperative activities among health care

1 providers to develop cost-effective health care delivery systems; and  
2 (c) any other lawful actions taken under this act by any person or  
3 entity created or regulated by this act, are declared to be pursuant to  
4 state statute and for the public purposes of the state of Washington.

5 NEW SECTION. **Sec. 15.** (1) Administrative expenses to operate and  
6 maintain the trust shall not exceed eleven percent of the trust's  
7 annual budget. The board shall not shift administrative costs or  
8 duties of the trust to providers or to resident beneficiaries.

9 (2) The board shall work with providers to develop and apply  
10 scientifically based utilization standards, to use encounter and  
11 prescribing data to detect excessive utilization, to develop due  
12 processes for enforcing appropriate utilization standards, and to  
13 identify and prosecute fraud.

14 (3) The board may institute other cost-containment measures in  
15 order to maintain a balanced budget. The board shall pursue due  
16 diligence to ensure that cost-containment measures do not limit access  
17 to clinically necessary care, nor infringe upon legitimate clinical  
18 decision making by practitioners.

19 NEW SECTION. **Sec. 16.** A new section is added to chapter 82.02 RCW to  
20 read as follows:

21 In addition to and not in lieu of taxes imposed at the rates  
22 established under chapter 82.04 RCW, all Washington state employers  
23 shall pay a health security assessment to the department of revenue to  
24 fund the Washington health security trust created in section 3 of this  
25 act.

26 (1) Effective May 15, 2003, all employers in Washington state shall  
27 pay in quarterly installments a health security assessment. Except as  
28 provided in this section, the health security assessment shall be: (a)  
29 In the case of employers with fewer than twenty employees, six percent  
30 of gross annual payroll; (b) in the case of employers with at least  
31 twenty, but fewer than fifty employees, seven and one-half percent of  
32 gross annual payroll; (c) in the case of employers with at least fifty,  
33 but fewer than five hundred employees, nine and three-quarters percent  
34 of gross annual payroll; (d) in the case of employers with at least  
35 five hundred, but fewer than one thousand employees, eleven and one-  
36 half percent of gross annual payroll; and (e) in the case of employers

1 with at least one thousand employees, twelve percent of gross annual  
2 payroll.

3 (2) For purposes of determining the tax rates under subsection (1)  
4 of this section, the number of employees means the number of full-time  
5 equivalent employees who are Washington residents.

6 (3) The department of revenue shall assess a penalty at the rate of  
7 two percent per month, or a fraction thereof, on any employer whose  
8 applicable health security payroll assessment is not postmarked by the  
9 last day of the month following the quarter in which it is due.

10 (4) The federal government, when an employer of Washington state  
11 residents, is exempt from the health security assessment prior to the  
12 repeal, amendment, or waiver of existing state and federal laws  
13 delineated in section 21 of this act.

14 (5) Beginning May 15, 2003, until May 15, 2008, employers that face  
15 financial hardship in paying the health security assessment, may, upon  
16 application to the board of trustees created in section 4 of this act,  
17 be eligible for waivers or reductions in the health security  
18 assessment. The board shall establish rules and procedures governing  
19 all aspects of the business assistance program, including application  
20 procedures, thresholds regarding firm size, wages, profits, age of  
21 firm, and duration of assistance.

22 (6) Pending integration of federally qualified Taft-Hartley trusts,  
23 the payroll of employees covered under these trusts is exempt from the  
24 health security assessment, although the employer may pay it  
25 voluntarily.

26 (7) Pending repeal, amendment, or waiver of applicable state and  
27 federal laws delineated in section 21 of this act, payroll of native  
28 American residents who elect not to participate in the health security  
29 trust is exempt from the health security assessment.

30 (8) Eighty percent of the revenue collected under this section must  
31 be deposited in the benefits account created in section 24 of this act.

32 (9) For the purposes of this section, the terms "employer,"  
33 "payroll," and "resident" have the same meaning as defined in section  
34 2 of this act.

35 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.02 RCW to  
36 read as follows:

37 (1) Effective May 15, 2003, all Washington residents eighteen years  
38 and older, except medicare beneficiaries, with incomes over one hundred

1 fifty percent of the federal poverty level shall pay a health security  
2 premium of seventy-five dollars per month.

3 (2) Medicare beneficiaries with incomes over one hundred fifty  
4 percent of the federal poverty level shall pay a health security  
5 premium of fifty dollars per month.

6 (3) All premiums shall be adjusted annually by the office of  
7 financial management to reflect changes in the Washington state  
8 consumer price index.

9 (4) By May 15, 2003, the board of trustees of the Washington health  
10 security trust, created in section 3 of this act, shall develop and  
11 implement specific rules and procedures to subsidize the health  
12 security premiums of residents, including medicare eligible residents,  
13 whose household incomes are less than two hundred fifty percent of the  
14 federal poverty level.

15 (5) Federal employees and retirees are exempt from the health  
16 security premium prior to the repeal, amendment, or waiver of existing  
17 federal laws delineated in section 21 of this act.

18 (6) Pending integration of federally qualified Taft-Hartley trusts,  
19 employees and retirees covered under these trusts are exempt from the  
20 health security premium, although the employer or employee may pay it  
21 voluntarily.

22 (7) Pending repeal, amendment, or waiver of applicable state and  
23 federal laws delineated in section 21 of this act, native American  
24 residents are exempt from paying the health security premium, although  
25 the native American resident or their employer may pay it voluntarily.

26 (8) Employers shall collect the health security premiums of their  
27 employees through payroll deduction. An employee may also make the  
28 premium payment for a nonworking spouse through payroll deduction.  
29 Self-employed and nonemployed individuals shall pay their health  
30 security premiums monthly to the department of revenue. The department  
31 shall assess a penalty at the rate of two percent per month, or  
32 fraction thereof, on all self-employed and nonemployed individuals  
33 whose health security premium is not postmarked by the twentieth day  
34 following the month it is due. Employers reserve the right either to  
35 provide private health care coverage to an employee, or to pay the  
36 health security premium on an employee's behalf, or both. As  
37 employers, the state of Washington, counties, municipalities, school  
38 districts, and other public jurisdictions shall pay the health security  
39 premium for public employees, non-working spouses of public employees

1 and household members 18 and over whom they claim as dependents for  
2 federal income tax purposes.

3 (9) Retirees who receive retirement benefits from a former employer  
4 or a successor to the employer, other than in Taft-Hartley trusts or  
5 through federal employment, may claim a credit against the health  
6 security premium otherwise due under this section, if all or a portion  
7 of the retirement benefits consists of health care benefits arising  
8 from a contract of health insurance entered into between the employer,  
9 or successor, and a health insurance provider.

10 (10) For the purposes of this section, the terms "employer,"  
11 "federal poverty level," "income," and "resident" have the same meaning  
12 as defined in section 2 of this act.

13 NEW SECTION. **Sec. 18.** Revenue derived from the health security  
14 assessment, created in section 16 of this act, and the health security  
15 premium, created in section 17 of this act, shall not be used to pay  
16 for medical assistance currently provided under chapter 74.09 RCW or  
17 other existing federal and state health care programs. If existing  
18 federal and state sources of payment for health services are reduced or  
19 terminated after the effective date of this section, the legislature  
20 shall replace these appropriations from the general fund.

21 NEW SECTION. **Sec. 19.** (1) The health care authority is hereby  
22 abolished and its powers, duties, and functions are hereby transferred  
23 to the Washington health security trust. All references to the  
24 administrator or the health care authority in the Revised Code of  
25 Washington shall be construed to mean the chair or the Washington  
26 health security trust.

27 (2)(a) All reports, documents, surveys, books, records, files,  
28 papers, or written material in the possession of the health care  
29 authority shall be delivered to the custody of the Washington health  
30 security trust. All cabinets, furniture, office equipment, motor  
31 vehicles, and other tangible property employed by the health care  
32 authority shall be made available to the Washington health security  
33 trust. All funds, credits, or other assets held by the health care  
34 authority shall be assigned to the Washington health security trust.

35 (b) Any appropriations made to the health care authority shall, on  
36 the effective date of this section, be transferred and credited to the  
37 Washington health security trust.

1 (c) If any question arises as to the transfer of any personnel,  
2 funds, books, documents, records, papers, files, equipment, or other  
3 tangible property used or held in the exercise of the powers and the  
4 performance of the duties and functions transferred, the director of  
5 financial management shall make a determination as to the proper  
6 allocation and certify the same to the state agencies concerned.

7 (3) All employees of the health care authority are transferred to  
8 the jurisdiction of the Washington health security trust. All  
9 employees classified under chapter 41.06 RCW, the state civil service  
10 law, are assigned to the Washington health security trust to perform  
11 their usual duties upon the same terms as formerly, without any loss of  
12 rights, subject to any action that may be appropriate thereafter in  
13 accordance with the laws and rules governing state civil service.

14 (4) All rules and all pending business before the health care  
15 authority shall be continued and acted upon by the Washington health  
16 security trust. All existing contracts and obligations shall remain in  
17 full force and shall be performed by the Washington health security  
18 trust.

19 (5) The transfer of the powers, duties, functions, and personnel of  
20 the health care authority shall not affect the validity of any act  
21 performed before the effective date of this section.

22 (6) If apportionments of budgeted funds are required because of the  
23 transfers directed by this section, the director of financial  
24 management shall certify the apportionments to the agencies affected,  
25 the state auditor, and the state treasurer. Each of these shall make  
26 the appropriate transfer and adjustments in funds and appropriation  
27 accounts and equipment records in accordance with the certification.

28 (7) Nothing contained in this section may be construed to alter any  
29 existing collective bargaining unit or the provisions of any existing  
30 collective bargaining agreement until the agreement has expired or  
31 until the bargaining unit has been modified by action of the personnel  
32 board as provided by law.

33 NEW SECTION. **Sec. 20.** Effective January 1, 2003, until April 30,  
34 2003, all employers in Washington state shall pay health security  
35 assessments that are equivalent to three and two-tenths percent of  
36 gross quarterly payroll. The department of revenue will collect these  
37 moneys. Twenty percent of these revenues must be deposited in the  
38 reserve account, created in section 22 of this act. Eighty percent of

1 these revenues must be deposited in the benefits account, created in  
2 section 24 of this act. Employers who pay this assessment may be  
3 eligible for partial or full rebates within two years, if there are  
4 sufficient surpluses in the trust.

5 NEW SECTION. **Sec. 21.** (1) The board, in consultation with sovereign  
6 tribal governments as called for by the Centennial Accord, shall  
7 determine the state and federal laws that need to be repealed, amended,  
8 or waived to implement this act, and report its recommendations, with  
9 proposed revisions to the Revised Code of Washington, to the governor  
10 and the appropriate committees of the legislature by October 1, 2002.

11 (2) The governor, in consultation with the board and sovereign  
12 tribal governments as called for by the Centennial Accord, shall take  
13 the following steps in an effort to receive waivers or exemptions from  
14 federal statutes necessary to fully implement this act:

15 (a) Negotiate with the federal department of health and human  
16 services, health care financing administration, to obtain a statutory  
17 or regulatory waiver of provisions of the medical assistance statute,  
18 Title XIX of the federal social security act and the children's health  
19 insurance program;

20 (b) Negotiate with the federal department of health and human  
21 services, health care financing administration, to obtain a statutory  
22 or regulatory waiver of provisions of the medicare statute, Title XVIII  
23 of the federal social security act, that currently constitute barriers  
24 to full implementation of this act;

25 (c) Negotiate with the federal department of health and human  
26 services to obtain any statutory or regulatory waivers of provisions of  
27 the United States public health services act necessary to ensure  
28 integration of federally funded community and migrant health clinics  
29 and other health services funded through the public health services act  
30 into the trust system under this act;

31 (d) Negotiate with the federal office of personnel management for  
32 the inclusion of federal employee health benefits in the trust under  
33 this act;

34 (e) Negotiate with the federal department of veterans' affairs for  
35 the inclusion of veterans' medical benefits in the trust under this  
36 act;

37 (f) Negotiate with the federal department of defense and other  
38 federal agencies for the inclusion of the civilian health and medical

1 program of the uniformed services (CHAMPUS) in the trust under this  
2 act;

3 (g) Negotiate with the Indian health services and sovereign tribal  
4 governments for inclusion and adequate reimbursement of Indian health  
5 benefits under the trust created by this act; and

6 (h) Request that the United States congress amend the internal  
7 revenue code to treat the employer health security assessment, created  
8 in section 16 of this act, and the individual health security premiums,  
9 created in section 17 of this act, as fully deductible from adjusted  
10 gross income.

11 NEW SECTION. **Sec. 22.** (1) The reserve account is created in the  
12 custody of the state treasurer. The reserve account will accumulate  
13 moneys until its value equals ten percent of the total annual budgeted  
14 expenditures of the trust and then will be considered fully funded,  
15 unless the legislature determines that a different level of reserve is  
16 necessary and prudent. Whenever the reserve account is fully funded,  
17 additional moneys shall be transferred to the benefits account created  
18 in section 24 of this act.

19 (2) Receipts from the following sources must be deposited into the  
20 reserve account: (a) Twenty percent of the health security assessments  
21 paid by employers under section 20 of this act between January 1, 2003  
22 and April 30, 2003; (b) effective May 15, 2003, seven percent of  
23 receipts from the health security assessment created under section 16  
24 of this act and seven percent of the receipts from the health security  
25 premium created under section 17 of this act; and (c) ten percent of  
26 all moneys received pursuant to RCW 41.05.120, 41.05.130, 66.24.290,  
27 82.24.020, 82.26.020, 82.08.150, 43.79.480, 41.05.220, and section 33  
28 of this act.

29 (3) Expenditures from the reserve account may be used only for the  
30 purposes of health care services and maintenance of the trust. Only  
31 the board or the board's designee may authorize expenditures from the  
32 account. The account is subject to allotment procedures under chapter  
33 43.88 RCW, but an appropriation is not required for expenditures.

34 NEW SECTION. **Sec. 23.** (1) The displaced worker training account is  
35 created in the custody of the state treasurer. Between May 15, 2003,  
36 and January 1, 2005, three percent of the receipts from the health  
37 security assessment created in section 16 of this act and three percent

1 of the health security premium created in section 17 of this act must  
2 be deposited into the account. Expenditures from the account may be  
3 used only for retraining and job placement of workers displaced by the  
4 transition to the trust. Only the board or the board's designee may  
5 authorize expenditures from the account. The account is subject to  
6 allotment procedures under chapter 43.88 RCW, but an appropriation is  
7 not required for expenditures.

8 (2) Any funds remaining in the account on December 31, 2005, must  
9 be deposited into the benefits account created in section 24 of this  
10 act.

11 (3) This section expires January 1, 2006.

12 NEW SECTION. Sec. 24. The benefits account is created in the custody  
13 of the state treasurer. All receipts from the health security  
14 assessment created under section 16 of this act and the health security  
15 premium created under section 17 of this act that are not dedicated to  
16 the reserve account created in section 22 of this act or the displaced  
17 worker training account created in section 23 of this act, as well as  
18 receipts from other sources, must be deposited into the account.  
19 Expenditures from the account may be used only for health care services  
20 and maintenance of the trust. Only the board or the board's designee  
21 may authorize expenditures from the account. The account is subject to  
22 allotment procedures under chapter 43.88 RCW, but an appropriation is  
23 not required for expenditures.

24 **Sec. 25.** RCW 41.05.120 and 1994 c 153 s 9 are each amended to read as  
25 follows:

26 ~~((1)) Contributions from RCW 41.05.050, and reserves, dividends,~~  
27 ~~and refunds currently in the public employees' and retirees' insurance~~  
28 ~~account ((is hereby established in the custody of the state treasurer,~~  
29 ~~to be used by the administrator for the deposit of contributions, the~~  
30 ~~remittance paid by school districts and educational service districts~~  
31 ~~under RCW 28A.400.400, reserves, dividends, and refunds, and for~~  
32 ~~payment of premiums for employee and retiree insurance benefit~~  
33 ~~contracts and subsidy amounts provided under RCW 41.05.085. Moneys~~  
34 ~~from the account shall be disbursed by the state treasurer by warrants~~  
35 ~~on vouchers duly authorized by the administrator.~~

36 ~~(2) The state treasurer and the state investment board may invest~~  
37 ~~moneys in the public employees' and retirees' insurance account. All~~

~~such investments shall be in accordance with RCW 43.84.080 or 43.84.150, whichever is applicable. The administrator shall determine whether the state treasurer or the state investment board or both shall invest moneys in the public employees' insurance account)) shall be deposited in the reserve account pursuant to section 22 of this act and the benefits account pursuant to section 24 of this act.~~

**Sec. 26.** RCW 41.05.130 and 1988 c 107 s 11 are each amended to read as follows:

The state health care authority administrative account is (~~hereby created in the state treasury~~) transferred to the reserve account created in section 22 of this act and the benefits account created in section 24 of this act. Moneys in the account, including unanticipated revenues under RCW 43.79.270, (~~may be spent only after appropriation by statute, and may be used only for operating expenses of the authority~~) are transferred to the reserve account created in section 22 of this act and the benefits account created in section 24 of this act.

**Sec. 27.** RCW 66.24.290 and 1999 c 281 s 14 are each amended to read as follows:

(1) Any microbrewer or domestic brewery or beer distributor licensed under this title may sell and deliver beer to holders of authorized licenses direct, but to no other person, other than the *[liquor control]* board; and every such brewery or beer distributor shall report all sales to the *[liquor control]* board monthly, pursuant to the regulations, and shall pay to the *[liquor control]* board as an added tax for the privilege of manufacturing and selling the beer within the state a tax of one dollar and thirty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer shall pay a tax computed in gallons at the rate of one dollar and thirty cents per barrel of thirty-one gallons.

(3)(a) An additional tax is imposed on all beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four

1 dollars and seventy-eight cents per barrel of thirty-one gallons  
2 thereafter.

3 (b) The additional tax imposed under this subsection does not apply  
4 to the sale of the first sixty thousand barrels of beer each year by  
5 breweries that are entitled to a reduced rate of tax under 26 U.S.C.  
6 Sec. 5051, as existing on July 1, 1993, or such subsequent date as may  
7 be provided by the [*liquor control*] board by rule consistent with the  
8 purposes of this exemption.

9 (c) All revenues collected from the additional tax imposed under  
10 this subsection (3) shall be deposited in the ((~~health services~~))  
11 reserve account created in section 22 of this act and the benefits  
12 account ((~~under RCW 43.72.900~~)) created in section 24 of this act.

13 **Sec. 28.** RCW 82.24.020 and 1994 sp.s. c 7 s 904 are each amended to  
14 read as follows:

15 (3) An additional tax is imposed upon the sale, use, consumption,  
16 handling, possession, or distribution of all cigarettes, in an amount  
17 equal to the rate of ten mills per cigarette through June 30, 1994,  
18 eleven and one-fourth mills per cigarette for the period July 1, 1994,  
19 through June 30, 1995, twenty mills per cigarette for the period July  
20 1, 1995, through June 30, 1996, and twenty and one-half mills per  
21 cigarette thereafter. All revenues collected during any month from  
22 this additional tax shall be deposited in the ((~~health services~~))  
23 reserve account created in section 22 of this act and the benefits  
24 account created ((~~under RCW 43.72.900~~)) in section 24 of this act by  
25 the twenty-fifth day of the following month.

26 **Sec. 29.** RCW 82.26.020 and 1993 c 492 s 309 are each amended to read  
27 as follows:

28 (4) An additional tax is imposed equal to ten percent of the  
29 wholesale sales price of tobacco products. The moneys collected under  
30 this subsection shall be deposited in the ((~~health services~~)) reserve  
31 account created in section 22 of this act and the benefits account  
32 created ((~~under RCW 43.72.900~~)) in section 24 of this act.

33 **Sec. 30.** RCW 82.08.150 and 1998 c 126 s 16 are each amended to read as  
34 follows:

35 (6)(a) An additional tax is imposed upon retail sale of spirits in  
36 the original package at the rate of one and seven-tenths percent of the

1 selling price through June 30, 1995, two and six-tenths percent of the  
2 selling price for the period July 1, 1995, through June 30, 1997, and  
3 three and four-tenths [percent] of the selling price thereafter. This  
4 additional tax applies to all such sales including sales by Washington  
5 state liquor stores and agencies, but excluding sales to spirits, beer,  
6 and wine restaurant licensees.

7 (b) An additional tax is imposed upon retail sale of spirits in the  
8 original package at the rate of one and one-tenth percent of the  
9 selling price through June 30, 1995, one and seven-tenths percent of  
10 the selling price for the period July 1, 1995, through June 30, 1997,  
11 and two and three-tenths [percent] of the selling price thereafter.  
12 This additional tax applies to all such sales to spirits, beer, and  
13 wine restaurant licensees.

14 (c) An additional tax is imposed upon each retail sale of spirits  
15 in the original package at the rate of twenty cents per liter through  
16 June 30, 1995, thirty cents per liter for the period July 1, 1995,  
17 through June 30, 1997, and forty-one cents per liter thereafter. This  
18 additional tax applies to all such sales including sales by Washington  
19 state liquor stores and agencies, and including sales to spirits, beer,  
20 and wine restaurant licensees.

21 (d) All revenues collected during any month from additional taxes  
22 under this subsection shall be deposited in the ((~~health services~~))  
23 reserve account created in section 22 of this act and the benefits  
24 account created ((~~under RCW 43.72.900~~)) in section 24 of this act by  
25 the twenty-fifth day of the following month.

26 **Sec. 31.** RCW 43.79.480 and 1999 c 309 s 927 are each amended to read  
27 as follows:

28 (1) Moneys received by the state of Washington in accordance with  
29 the settlement of the state's legal action against tobacco product  
30 manufacturers, exclusive of costs and attorneys' fees, shall be  
31 deposited in the tobacco settlement account created in this section.

32 (2) The tobacco settlement account is created in the state  
33 treasury. Moneys in the tobacco settlement account may only be  
34 transferred to the ((~~health services~~)) reserve account created in  
35 section 22 of this act and the benefits account ((~~for the purposes set~~  
36 ~~forth in RCW 43.72.900~~)) created in section 24 of this act, and to the  
37 tobacco prevention and control account for purposes set forth in this  
38 section.

(3) The tobacco prevention and control account is created in the state treasury. The source of revenue for this account is moneys transferred to the account from the tobacco settlement account, investment earnings, donations to the account, and other revenues as directed by law. Expenditures from the account are subject to appropriation.

(4) The state treasurer shall transfer one hundred million dollars from the tobacco settlement account to the tobacco prevention and control account upon authorization of the director of financial management. The director shall authorize transfer of the total amount by June 30, 2001.

**Sec. 32.** RCW 41.05.220 and 1998 c 245 s 38 are each amended to read as follows:

(1) State general funds appropriated to the department of health for the purposes of funding community health centers to provide primary health and dental care services, migrant health services, and maternity health care services shall be transferred to the ~~((state health care authority))~~ reserve account created in section 22 of this act and the benefits account created in section 24 of this act. Any related administrative funds expended by the department of health for this purpose shall also be transferred to the ~~((health care authority))~~ reserve account created in section 22 of this act and the benefits account created in section 24 of this act. The Washington health ~~((care authority))~~ security trust shall exclusively expend these funds through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services. The ~~((administrator))~~ chair of the Washington health ~~((care authority))~~ security trust shall establish requirements necessary to assure community health centers provide quality health care services that are appropriate and effective and are delivered in a cost-efficient manner. The ~~((administrator))~~ chair of the Washington health security trust shall further assure that community health centers have appropriate referral arrangements for acute care and medical specialty services not provided by the community health centers.

NEW SECTION. **Sec. 33.** Following the repeal, amendment, or waiver of existing state and federal laws delineated in section 21 of this act,

1 all other revenues currently deposited in the health services account  
2 for personal health care services shall be deposited to the reserve  
3 account created in section 22 of this act and the benefits account  
4 created in section 24 of this act.

5 NEW SECTION. **Sec. 34.** Nothing in this act shall be construed to limit  
6 an employer's right to maintain employee benefit plans under the  
7 federal employee retirement income security act of 1974.

8 NEW SECTION. **Sec. 35.** No later than January 1, 2003, the board shall  
9 submit to the legislature a proposal to integrate those current and  
10 future federally qualified Taft-Hartley trusts that choose to  
11 participate in the trust.

12 NEW SECTION. **Sec. 36.** On or before January 1, 2004, the board, in  
13 coordination with the department of labor and industries, shall study  
14 and make a report to the governor and appropriate committees of the  
15 legislature on the provision of medical benefits for injured workers  
16 under the trust.

17 NEW SECTION. **Sec. 37.** The sum of fifty million dollars, or as much  
18 thereof as may be necessary, is appropriated for the fiscal year ending  
19 June 30, 2003, from the general fund to the benefits account of the  
20 Washington health security trust for start-up moneys for purposes of  
21 this act during the period of July 1, 2002 through June 30, 2003.

22 NEW SECTION. **Sec. 38.** The following acts or parts of acts are each  
23 repealed:

24 RCW 82.04.260 (Tax on manufacturers and processors of various foods  
25 and by-products--Research and development organizations--Nuclear fuel  
26 assemblies--Travel agents--Certain international activities--  
27 Stevedoring and associated activities--Low-level waste disposers--  
28 Insurance agents, brokers, and solicitors--Hospitals) and 1998 c 312 s  
29 5 & 1998 c 311 s 2; and

30 RCW 48.14.0201 (Premiums and prepayments tax--Health care  
31 services--State preemption) and 1998 c 323 s 1, 1997 c 154 s 1, 1993  
32 sp.s. c 25 s 601, & 1993 c 492 s 301.

1 NEW SECTION. **Sec. 39.** Sections 1 through 15, 18, 19, 21 through 24,  
2 and 33 through 35 of this act constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 40.** (1) Sections 22 through 24 of this act take  
4 effect March 15, 2002.

5 (2) Sections 19, 25 through 34, and 38 of this act take effect May  
6 15, 2003.

7 NEW SECTION. **Sec. 41.** If any provision of this act or its application  
8 to any person or circumstance is held invalid, the remainder of the act  
9 or the application of the provision to other persons or circumstances  
10 is not affected.

11 NEW SECTION. **Sec. 42.** If any part of this act is found to be in  
12 conflict with federal requirements that are a prescribed condition to  
13 the allocation of federal funds to the state, the conflicting part of  
14 this act is inoperative solely to the extent of the conflict and with  
15 respect to the agencies directly affected, and this finding does not  
16 affect the operation of the remainder of this act in its application to  
17 the agencies concerned. Rules adopted under this act must meet federal  
18 requirements that are a necessary condition to the receipt of federal  
19 funds by the state.

--- END ---